

EARNEST MONEY CONTRACT
FOR DESSAU RIDGE OFFICE CONDOMINIUMS

1. PARTIES:

DESSAU RIDGE, Ltd., a Texas Partnership, hereinafter called "SELLER", agrees to sell and convey by general warranty deed to _____ hereinafter called "BUYER", the property described in Paragraph 2.

2. PROPERTY AND CONDOMINIUM DOCUMENTS:

A. Condominium Unit _____ of DESSAU RIDGE OFFICE CONDOMINIUMS, a condominium project, located at 1508 Dessau Ridge Lane _____, City of Austin, Travis County, Texas as more fully described in the Condominium Declaration of record in Document No. _____, Official Public Records of Travis County, Texas and Plat attached thereto and incorporated therein, and any amendments thereto of record in said County; together with such Unit's undivided interest in the Common Elements designated by the Declaration, including those areas reserved as Limited Common Elements appurtenant to the Unit and such other rights to use the Common Elements which have been specifically assigned to the Unit in any other manner. The Unit being purchased is indicated on the attached **Exhibit A** by an arrow. Buyer and Seller agree that such Unit consists of approximately 1000 square feet of interior floor space. The floor plan of the Unit being purchased is shown on the attached **Exhibit B**. All improvements, structures, and fixtures to be constructed as part of the Unit are collectively referred to as the "Improvements." All property interests and rights sold herein are called the "Property." The Property is subject to mandatory membership in Grand Oaks Office Condominium Association, Inc., a Texas non-profit Corporation (the "Association").

B. The Declaration and Bylaws of the Association are called "Documents".
(Check one box only):

(1) Prior to signing this contract: Buyer has received a copy of the Documents. Buyer is advised to read the Documents before signing the contract.

(2) Buyer has not received a copy of the Documents. Seller shall deliver the Documents to the Buyer within _____ days after the effective date of the contract. Buyer may cancel the contract before the sixth day after Buyer receives the Documents by hand-delivering or mailing written

notice of cancellation to Seller by certified United States mail, return receipt requested.

Pursuant to Section 82.151 of the Texas Property Code, the Purchaser hereby waives the requirement that Seller provide a Condominium Information Statement in that the all units are restricted to nonresidential use.

Signature(s)

3. CONTRACT SALES PRICE:

- A. SALES PRICE (sum of B & C; may be subject to adjustment if Paragraph 6 and Exhibit D are applicable) \$ _____
- B. CASH DOWN PAYMENT PAYABLE AT CLOSING \$ _____
- C. AMOUNT TO BE FINANCED \$ _____

4. EARNEST MONEY:

Simultaneous with the execution of this contract, Buyer has deposited with Land America Title, 3508 Far West Blvd., Suite 190, Austin, Texas 78731, Escrow Agent, the sum of \$ **2,000.00** as earnest money. Upon consummation of this purchase and sale, the earnest money shall be applied in reduction of the purchase price, or if such sale is not consummated, shall be disposed of as hereinafter provided.

5. TITLE POLICY AND SURVEY:

- A. Seller shall furnish to Buyer at Seller's expense an Owner Policy of Title Insurance (the "Title Policy") issued by LAND AMERICA TITLE INSURANCE COMPANY, 3508 Far West Blvd., Suite 190, Austin, Texas 78731 (512) 345-1559; (the "Title Company") in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:

- (1) The standard printed exception for standby fees, taxes, and assessments.
- (2) Terms and provisions of the Documents including the assessments and platted easements.
- (3) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
- (4) The standard printed exceptions to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements.
- (5) The standard printed exception as to marital rights
- (6) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.

Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for Title Insurance (the "Commitment") and, at Buyer's expense, if requested of Title Company, legible copies of restrictive covenants and documents evidencing exception in the commitment other than the standard printed exceptions. Seller authorizes the Title Company to mail or hand-deliver the Commitment and related documents to Buyer at Buyer's address shown below. If the Commitment is not delivered within the specified time, the time for delivery shall be automatically extended up to 15 days from the date the Title company is notified in writing of the failure to deliver the Commitment. Buyers shall have 5 days after receipt of the Commitment to object in writing to matters disclosed in the Commitment which are not permitted exceptions to Title. Buyer may not object to existing building and zoning ordinances unless any such ordinance or item prohibits the following use or activity: business or administrative offices.

B. SURVEY No survey required

Buyer's failure to object under Paragraph 5A within the time allowed shall constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment shall not be deemed to have been waived. If timely objections to unpermitted exceptions are made by Buyer or any third party lender, Seller shall cure the objection within 15 days from the date Seller receives them and the Closing Date shall be extended as necessary. If objections are not cured by the extended Closing Date, this contract shall terminate and the Earnest Money shall be refunded to buyer unless Buyer elects to waive the objections.

6. APPROVAL OF FLOOR PLAN, ADJUSTMENT OF CONTRACT SALES PRICE AND COMPLETION OF IMPROVEMENTS:

- (A) See **Exhibit "C"**.
- (B) Not applicable. Unit being purchased as-is at time of contract.

7. FINANCING CONDITIONS:

- A. If the balance of the purchase price is to be payable from the proceeds of a mortgage loan, Buyer agrees to apply for such mortgage loan and to proceed with all due diligence.
- B. In the event Buyer is unable to obtain a loan, (even if through no fault or misrepresentation of Buyer), Buyer shall not be considered in default in the performance of this Contract but all sums paid by Buyer to Seller hereunder shall be forfeited.
- C. If failure to obtain such a loan is due to Buyer's misrepresentation, failure to cooperate, or failure to proceed diligently, the Earnest Money shall be forfeited as liquidated damages and this contract shall be terminated.
- D. Notwithstanding any other provision of this contract to the contrary, Seller shall have the option to terminate the contract if Buyer has not received a firm commitment for the above-described loan within 30 business days from the date of execution of this contract, for any cause or reason.
- E. Buyer gives permission to permanent lender to provide copies of all necessary documents and information to Seller's interim lender.

8. ITEMS TO BE FURNISHED TO BUYER BY SELLER:

At or prior to Closing, Seller will deliver to Buyer, for Buyer's review, the following items:

- A. If Paragraph 6 (A) is marked, a current set of Drawings covering the Unit; and
- B. Copies of all warranties and guarantees covering the Improvements.

9. INSPECTION:

Seller agrees that, before the Closing, Buyer, personally or through its authorized agents or representatives, shall be entitled to enter the Unit at all reasonable times upon advance notice by Buyer to Seller. Buyer hereby indemnifies and holds Seller harmless from and against all losses, claims, damages, judgments, costs, and expenses, including reasonable attorney's fees, which Seller may incur as a result of the inspection of the Unit by Buyer pursuant to this Contract.

10. BUYER'S WARRANTIES:

Buyer hereby warrants and represents to Seller as follows:

- A. The execution of this Contact by Buyer will fully effective to bind Buyer and to create a valid, legal, and binding obligation against Buyer.
- B. There are no actions, suits, proceedings or investigations pending or, to the knowledge of Buyer, threatened in any court or before any governmental agency or instrumentality against, by, or affecting Buyer or Buyer's financial condition which would materially and adversely affect Buyer, or Buyer's assets, or which would prevent the carrying out of the Contract or any of the transactions contemplated by this Contract.
- C. Buyer has the financial capability to carry out the terms of this Contract and proof of such capability in the form of financial statements, financial commitments, a commitment from a lender, or similar documentation will be provided to Seller, to Seller's reasonable satisfaction, within 30 days of the Effective Date.

11. TITLE:

At the Closing, Seller shall convey to Buyer, by general warranty deed, good and indefeasible title in fee simple to the Unit free and clear of any and all liens, easements, assessments and restrictions, except for the following:

- A. The Declaration of Condominium Regime for GRAND OAKS OFFICE CONDOMINIUMS (the "Declaration"), with all conditions, assessments, restrictions and other matters contained within such Declaration;
- B. The lien for general real estate taxes for the calendar year during which the Closing shall occur which are not yet due and payable; and
- C. The standard printed exceptions and the Permitted Exceptions set forth in Paragraph 5.A.

12. CLOSING:

- A. The consummation of the Contact Sales Price and the sale (the "Closing") shall be held at 10:00 a.m., or such other time as agreed by the parties, on or before _____, 2008 or fifteen (15) days after Completion of the Improvements if the Unit is not being purchased as-is, at the offices of the Title Company. If the date for the Closing, as determined in accordance with the provisions of the preceding sentence, is a Saturday, Sunday, or bank holiday, the Closing shall occur on the next

regular banking day following that date. The date and hour or the Closing are referred to herein as the "Closing Date."

B. At the Closing:

1. Seller shall deliver or cause to be delivered each of the following items to Buyer:
 - a. A duly executed and acknowledged general warranty deed conveying the Unit to Buyer.
 - b. All keys to all locks for the Unit.
 - c. The Owner Policy of Title Insurance (will be delivered to Buyer by Title Company after Closing).
2. Buyer shall deliver to Seller the Contract Sales Price, required to be paid in cash or wire transfer funds.
3. Property taxes for the year during which Closing occurs will be prorated between Seller and Buyer effective as of the date of the Closing and shall be adjusted in cash at the Closing. Except as otherwise expressly provided in this Contract, all other closing costs, including, without limitation, recording and escrow fees, will be assessed to respective parties as is customary in the purchase of improved real property in Travis County, Texas, as of the Closing Date. Seller shall be responsible for all claims for the Property of any nature existing or created as of the date of the Closing or arising out of any acts or omissions of Seller occurring before the date of Closing (other than claims for damage to the Improvements), and Seller agrees to hold Buyer harmless from any of those claims. Buyer shall be responsible for all claims concerning the Property of any nature arising or incurred after the date of Closing or arising out of any nature or omissions of Buyer and Buyer agrees to hold Seller harmless from any such claims.

13. CASUALTY:

If the Property or any Improvements thereto are damaged by fire or other casualty, before the Closing Date, Seller shall give immediate notice to Buyer. Seller shall, at Seller's sole cost and expense, promptly restore the Property or the improvement to their condition before the fire or other casualty, and, in that event, the scheduled Completion (as defined in Exhibit C, if applicable) and Closing Date will be extended accordingly. If the damage is going to extend the scheduled Completion beyond one hundred eighty (180) days, Seller or Buyer will have the option, if

exercised within (30) days form the date such party receives written notice that the Completion extension will be beyond the one hundred eighty (180) days, to terminate

this Contract, whereupon all Earnest Money Deposit shall be released to Buyer and neither party will have any further liability under this Contract.

14. TERMINATION:

- A. This contract may be terminated by Seller if Buyer defaults in any of the obligations to be performed by Buyer, in which case Buyer's earnest money deposit shall be retained by Seller as and for liquidated damages. The parties agree that the earnest money amount was determined in part, on the basis that a default and forfeiture contemplated under the provisions hereof, would provide Seller the right to keep the earnest money as liquidated damages and that to determine damages actually caused by a Buyer default would be difficult
- B. In the event a bona fide dispute shall arise between Buyer and Seller before Closing, and notification of the other party is given in writing concerning boundaries, consideration, construction or improvements, or any matter relating to the interpretation of this contract, and if such bona fide dispute cannot in good faith be resolved completely to the satisfaction of both parties within ten (10) business days after notice of such dispute has been given, Seller shall have the right upon written notice to the Buyer, to terminate this contract. In the event of termination by the Seller, Seller shall return all earnest money to Buyer and, in addition, pay to Buyer \$100.00, the sum of which the parties agree to be reasonable and foreseeable estimate of damages, the actual damages, if any being difficult, if not impossible, to ascertain at the time of the signing of the contract. Upon termination, no cause of action shall accrue on behalf of the Buyer, and Seller shall no further rights or obligations under this contract.

15. RESTRICTIVE COVENANTS:

BUYER HEREBY ACKNOWLEDGES THAT THE PROPERTY IS SUBJECT TO CERTAIN RESTRICTIVE COVENANTS AND CONDITIONS WHICH RESTRICT THE USE OF THE PROPERTY. THESE RESTRICTIVE COVENANTS AND CONDITIONS ARE OF RECORD WITH THE COUNTY CLERK OF THE COUNTY IN WHICH THE PROPERTY IS SITUATED. BUYER ASSUMES FULL RESPONSIBILITY FOR EXAMINING THESE RESTRCITIVE COVENANTS AND CONDITIONS.

SELLER has X has not provided Buyer with a copy of these restrictions.

16. CHANGE ORDERS:

- A. The parties agree that Buyer shall have the option to request changes in the scope of the construction being undertaken by Seller either to decrease, increase or modify the work to be performed. Buyer shall make such request on the **Change Order Pricing Request** form provided by Seller which shall set forth in detail the requested changes.
- B. Buyer agrees and acknowledges that no structural changes or other changes requiring new drawings shall be made after the Effective Date of the Contract unless Paragraph 6(A) of this Contract is marked and an Exhibit C is attached, in which case the time limit for changes shall be defined in Exhibit C.
- C. The parties agree that upon execution of a **Change Order Pricing Request** by all parties hereto, the change order shall become part of the contract and may be attached hereto. The sales price and the time for completion provided in this contract shall be modified as set forth in the agreed **Change Order Pricing Request**.
- D. If Paragraph 6(A) of this Contract is marked, see Exhibit C for addition terms.

17. MISCELLANEOUS PROVISIONS:

- A. Neither this contract nor any of the rights of Buyer hereunder may be assigned or transferred, either voluntarily or by operation of law or otherwise. This agreement shall not be recorded by Buyer. Any assignment or recording by Buyer shall constitute a breach of Buyer obligations under this contract, and entitle Seller to terminate this contract in accordance with Paragraph 14.A. above.
- B. No oral or written agreements, whether prior or subsequent, shall be binding unless included in this contract and signed by both parties hereto. In signing this Contract both parties acknowledge and agree that there are no oral agreements between them, that the terms of this Contract contain the entire agreement between the parties, and specifically, the Buyer acknowledges that they have not in any form or fashion relied on any statements or representations of the Seller or any agent working on behalf of the Seller, in entering into this Contract.
- C. In accordance with the terms of the Real Estate License Act of Texas, you as Buyer, are hereby advised that you should have the abstract covering the herein described real estate examined by an attorney of your selection, or be furnished with or obtain a policy of title insurance.
- D. All current year taxes and Condominium Association Fees will be prorated at time of closing.

- E. This Contract is performable in Travis County, Texas, and will be construed under and in accordance with the laws of the State of Texas.
- F. BUYER AGREES THAT BUYER IS WAIVING BUYER'S RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES – CONSUMER PROTECTION ACT 17.41 *ET SEQ*, TEXAS BUSINESS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. THIS WAIVER IS MADE AFTER CONSULTATION WITH AN ATTORNEY OF BUYER'S OWN SELECTION, AND BUYER VOLUNTARILY CONSENTS TO THE WAIVER. Buyer hereby further represents and warrants to Seller that (i) Buyer is not in a significantly disparate bargaining position in relation to Seller, (ii) Buyer is represented by legal counsel of Buyer's own choice and designation in connection with the transaction contemplated by this Contract, and (iii) Buyer is purchasing the Property for business or commercial investment or other similar purpose, not for use as Buyer's residence.

18. THIS AGREEMENT SHALL NOT BE EFFECTIVE UNTIL ACCEPTED IN WRITING BY SELLER. RECEIPT OF EARNEST MONEY BY A SALES REPRESENTATIVE DOES NOT CONSTITUTE ACCEPTANCE OF THIS CONTRACT BY SELLER.

19. BROKER'S REPRESENTATION AND FEES:

<p>_____</p> <p>Selling Broker</p> <p>_____</p> <p>License # Telephone</p> <p>Represents <input type="checkbox"/> Buyer only as Buyers Agent.</p> <p>_____</p> <p>Selling Agent</p> <p>_____</p> <p>Telephone</p>	<p><u>K.B. Realty Inc.</u></p> <p>Listing Broker</p> <p><u>0266674</u> <u>(512) 250-5600</u></p> <p>License # Telephone</p> <p>Represents <input type="checkbox"/> Seller and Buyer as Intermediary</p> <p>Represents <input type="checkbox"/> Seller only as Sellers Agent.</p> <p><u>Dan Kurka Jr.</u></p> <p>Listing Agent</p> <p><u>512-413-9644</u></p> <p>_____</p> <p>Telephone</p>
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930 South Bell Blvd. # 407

Selling Brokers Address

Cedar Park, TX 78613
Listing Brokers Address

Fax #

512-335-1708
Fax #

Seller Shall Pay Listing Broker a total cash fee of or 6.0 % of the total Sales Price in Williamson County, Texas on closing of this sale, which Escrow Agent shall pay from Seller's proceeds of this sale. The total cash fee is to be divided equally between the Brokers.

20. SPECIAL PROVISIONS:

21. BINDING ARBITRATION:

THE PARTIES HEREBY AGREE TO SUBMIT TO ARBITRATION ANY CONTROVERSY WHICH MAY ARISE BETWEEN THEM. THE PROVISIONS OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE, CHAPTER 171, GENERAL ARBITRATION SHALL APPLY.

22. CONDOMINIUM AND ASSOCIATION DOCUMENTS:

Buyer agrees to be bound by each and every term and condition of the Declaration of Condominium Regime for Grand Oaks Office Condominiums, a Condominium, recorded in Document No. _____, Official Public Records of Travis County, Texas (the "Declaration"), Articles of Incorporation and the Initial Rules of Grand Oaks Office Condominium Association, as amended from time to time, and to purchase the Property pursuant to this Contract and subject to such instruments and documents. Seller reserves the right to modify any of such documents as may be required by law, any title insurance company, or any institutional mortgagee and Seller reserves the right to make changes that may, in the opinion of Seller, improve the other units in the Condominium Regime, the Common Elements, Limited Common Elements and/or the operation of the Condominium Regime, but no changes shall be made which materially or adversely affect the Property.

23. EFFECTIVE DATE: The Effective Date shall be the date signed by Seller.

SELLER:

Davis Lane, Ltd., a Texas Limited Partnership

By: KB Realty Inc., its general partner

By: _____
Dan Kurka Jr., Vice President

DATE OF ACCEPTANCE: _____

BUYER:

DATE OF ACCEPTANCE: _____, 2006

ADDRESSES FOR NOTICES

Seller:

**Davis Lane Ltd.
930 South Bell Blvd. # 407
Cedar Park, Texas 78613**

Buyer:

Receipt of earnest money in the amount of \$ **2,000.00** is hereby acknowledged in the form of _____. Receipt of earnest money does not constitute acceptance by Seller.

Date of Receipt:_____

By:_____

EXHIBITS AND ATTACHMENTS

A. UNIT DESIGNATION

B. FLOOR PLAN, AS IS

**C. BUILDING PLANS, TO BE BUILT WITH A CHANGE ORDER
PRICING REQUEST**

EXHIBIT "C"

PERMITTED EXCEPTIONS

- A. Ad Valorem Property Taxes and Assessment. Standby fees, taxes and assessments by any taxing authority for the year 2005 and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership. (Note: Subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership will be paid by Declarant. The Tax Assessor Collector for Williamson County, Texas has been asked to render each Unit separately for ad valorem tax purposes. However, the Declarant believes that the Condominium Regime will not be so rendered until 2006, at the soonest, and then only as to Units that are complete as of January 1, 2006).
- B. Plat Restrictions, setbacks and easements recorded in Cabinet T, Slide 177-178, Plat Records, Williamson County, Texas.
- C. The Declaration filed in Document No. 2005005139, Official Public Records of Williamson County, Texas.
- D. A non-exclusive public utility and drainage easement granted to the public by DCWE No. 2, Ltd., as set out in instrument dated November 20, 2001, recorded in/under 2002006782 of the Real Property Records of Williamson County, Texas.
- E. Reservations of interests related to the production of minerals from the property as recorded in Vol. 335 Page 583 dated May 15, 1949; Vol. 336 Page 606 dated June 15, 1946; and, Vol. 560 Page 267 dated December 19, 1972 of the Real Property Records of Williamson County, Texas.